



# COMMONWEALTH OF MASSACHUSETTS

## DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

TWO SOUTH STATION  
BOSTON, MA 02110  
(617) 305-3580  
[www.mass.gov/dtc](http://www.mass.gov/dtc)

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

DANIEL O'CONNELL  
SECRETARY OF HOUSING AND  
ECONOMIC DEVELOPMENT

DANIEL C. CRANE  
DIRECTOR OF CONSUMER AFFAIRS  
AND BUSINESS REGULATION

SHARON E. GILLET  
COMMISSIONER

August 21, 2008

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Petition of AT&T Inc. for Interim Declaratory Ruling and Limited Waivers, WC Docket No. 08-152

Dear Secretary Dortch:

The Massachusetts Department of Telecommunications and Cable ("MDTC") respectfully submits this letter as comments, pursuant to the Public Notice, DA 08-1725 (rel. July 24, 2008), concerning the Petition of AT&T Inc. ("AT&T") for Interim Declaratory Ruling and Limited Waivers ("AT&T Petition"), filed with the Federal Communications Commission ("FCC" or "Commission") on July 17, 2008. In the Public Notice, the FCC established August 14 and 25, 2008, as the comment and reply comment deadline, respectively. Subsequently, in response to motions for extension from various entities, including the National Association of Regulatory Utility Commissioners, the FCC extended the deadline to August 21 and September 2, 2008, for comments and reply comments, respectively. See Public Notice, DA 08-1904 (rel. August 13, 2008).

In its Petition, AT&T requests that the FCC "declare on an *interim* basis, pending comprehensive [intercarrier compensation] reform, that:

- **Interstate terminating access charges** apply (i) to "interstate" interexchange IP-to-PSTN traffic that is delivered by a telecommunications carrier to a LEC for termination on the PSTN and (ii) to "interstate" interexchange PSTN-to-IP traffic that is delivered by a telecommunications carrier to a LEC for termination to an IP-based provider (and/or its customers) served by the LEC.

- The assessment of **intrastate terminating access charges** (i) on “intrastate” interexchange IP-to-PSTN traffic that is delivered by a telecommunications carrier to a LEC for termination on the PSTN and (ii) on “intrastate” interexchange PSTN-to-IP traffic that is delivered by a telecommunications carrier to a LEC for termination to an IP-based provider (and/or its customers) served by the LEC, does not conflict with federal policy (including the ESP Exemption) where the LEC’s intrastate terminating per-minute access rates are *equal to or less* than its interstate terminating per-minute access rates.
- **Reciprocal compensation arrangements** apply to the transport and termination of IP/PSTN traffic that is not access traffic (i.e., traffic that is “local”), when such traffic is exchanged between a LEC and another telecommunications carrier.”

AT&T Petition at 5 (emphasis in original, footnotes omitted).

If the FCC disagrees with AT&T that the ESP Exemption does apply to prevent the application of access charges to IP/PSTN traffic, AT&T requests a limited waiver of the ESP Exemption. Id. at 6. The Petition also provides that AT&T will voluntarily reduce its existing intrastate terminating access rates to interstate levels in those states where there is not parity between the rates, so that AT&T may assess intrastate terminating access charges on IP-PSTN traffic. Id. at 8. In order to effect this, AT&T seeks a limited waiver of the SLC caps and, if necessary in order to recover revenue losses from the access charge reductions, a waiver allowing it to increase the interstate originating switched access component of its Average Traffic Sensitive rate. Id. at 9.

The MDTC applauds AT&T for its initiative through this Petition as with prior efforts (e.g., the Missoula plan) in seeking a solution to intercarrier compensation issues that have plagued the industry for years. Indeed, there are aspects of AT&T’s petition which may merit strong consideration. However, the MDTC opposes the use of the declaratory ruling process as a means for resolving on an *ad hoc* basis extremely complex, multidimensional<sup>1</sup> issues that affect the entire industry. Intercarrier compensation issues should be resolved in a coordinated, comprehensive fashion rather than through company-specific petitions. Most importantly the Intercarrier Compensation FNPRM<sup>1</sup> already exists to address these issues. That AT&T and others may be frustrated by the pace of progress in those proceedings is not grounds for resorting to inferior processes to gain the reform they seek.

<sup>1</sup> In the Matter of Developing a Unified Intercarrier Compensation Regime, Further Notice of Proposed Rulemaking, CC Docket No. 01-92, FCC 05-33 (2005).

AT&T's Petition, in fact, demonstrates clearly the problem of using the declaratory relief process for resolving complex, inter-related industry-wide issues. Besides the issues to be resolved by the Petition (e.g., access charges for IP/PSTN traffic), the Petition also implicates many other issues which have wide-ranging ramifications for the industry and state and federal regulators, and which are better addressed through the rulemaking process. These include, among others, the jurisdiction of state and federal regulators over VoIP services; the scope of regulation of fixed VoIP services (which are significant in having the potential to become the dominant wireline voice service offering for the majority of Americans in the future); the relationship between cable companies and their wholesale CLEC partners, and the rights and obligations of these companies; the role of access charges in a unified intercarrier compensation scheme; and the extent to which IP-based services will contribute to universal service. Therefore, the MDTC urges the Commission to either dismiss AT&T's petition or review its proposal in the FCC's ongoing intercarrier compensation reform dockets.

Sincerely,

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/s/

Sharon E. Gillett, Commissioner